

HOUSE No. 1417

By Mr. Ayers of Quincy, petition of Bruce J. Ayers relative to safety precautions for users of automated teller machines. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT ESTABLISHING UNIFORM SAFEGUARDS AND PUBLIC PROTECTIONS
FOR CONSUMERS CONDUCTING BANK TRANSACTIONS AT AUTOMATED
TELLER MACHINES.

*Be it enacted by the Senate and House of Representatives in General
Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 1 of Chapter 167B of the General Laws,
2 as appearing in the 1994 Official Edition, is hereby amended by
3 adding after the word “agreement” in line 20 the following new
4 text:—

5 “Adequate lighting” with respect to an open and operating
6 teller machine facility located on an exterior wall of a building
7 open to the outdoor air, and any defined parking areas means
8 lighting during nighttime hours according to the following stan-
9 dards:

10 (i) a minimum of ten candlefoot power at the face of the auto-
11 mated teller machine and extending in an unobstructed direction
12 outward five feet;

13 (ii) a minimum of two candlefoot power within fifty feet from
14 all unobstructed directions from the face of the automated teller
15 machine. If such machine is located within ten feet of the corner
16 of the building and the automated teller facility is generally acces-
17 sible from the adjacent side, there shall be a minimum of two can-
18 dlefoot power along the first forty unobstructed feet of the
19 adjacent side of the building.

20 With respect to defined parking areas, “adequate lighting”
21 means a minimum of two candlefoot power in that portion of the
22 parking area within sixty feet of the automated teller machine
23 facility.

24 With respect to an automated teller machine facility located
25 within the interior of a building, “adequate lighting” means
26 lighting, on a twenty-four hour basis, which permits a person
27 entering the facility to readily and easily see all persons occu-
28 pying such facility, and which permits a person inside the facility
29 to readily and easily see all persons at the entry door of such
30 facility.

31 “Automated teller machine facility” means the area comprised
32 of one or more automated teller machines, and any adjacent space
33 which is made available to banking customers after regular
34 banking hours.

1 SECTION 2. Section 1 of Chapter 167B of the General Laws,
2 as so appearing, is hereby further amended by adding after the
3 word “functions” in line 24 the following:—

4 “Candlefoot power” means the light intensity of candles on a
5 horizontal plane at thirty-six inches above the ground level and
6 five feet in front of the area to be measured.

1 SECTION 3. Section 1 of Chapter 167B of the General Laws,
2 as so appearing, is hereby further amended by adding after the
3 word “function” in line 34 the following:—

4 “Defined parking area” means that portion of any parking area
5 open for bank customer parking which is (i) contiguous to any
6 paved walkway or sidewalk within fifty feet of an automated teller
7 machine facility; (ii) regularly, principally and lawfully used for
8 parking by consumers accessing the automated teller machine
9 facility during nighttime hours; and (iii) owned or leased by the
10 operator of the automated teller machine facility, or owned or oth-
11 erwise controlled by the party leasing the automated teller site to
12 the operator. The term does not include any parking area which is
13 not open, not regularly used or not designated for parking by the
14 users of the automated teller machine who are conducting auto-
15 mated transactions during nighttime hours. A parking area is not
16 open if it is physically closed to access or if conspicuous signs
17 indicate it is closed or if such area falls outside the boundaries of
18 the designated parking area for such automated teller machine as
19 indicated by an appropriate amount of signage indicating the
20 proper parking area.

1 SECTION 4. Section 1 of Chapter 167B of the General Laws,
2 as so appearing, is hereby further amended by adding after the
3 word “services” in line 109 the following:—
4 “Nighttime hours” means the period of time beginning at sunset
5 and ending at sunrise.

1 SECTION 5. Section 1 of Chapter 167B of the General Laws,
2 as so appearing, is hereby further amended by adding after the
3 word “intervals” in line 139 the following:—
4 “Regular banking hours” means the period of time during each
5 weekday, Monday through Friday, commencing at nine o’clock
6 a.m. and ending at five o’clock p.m.

1 SECTION 6. Chapter 167B is hereby further amended by
2 adding at the end thereof the following new sections:—

3 Section 25. (I) Security Measures — A bank shall maintain the
4 following security measures with respect to each of its automated
5 teller machine facilities:

6 (a) A surveillance camera or cameras, which shall view and
7 record all persons entering, exiting, and moving within or about
8 an automated teller machine facility located within the interior of
9 a building, or which shall view and record all activity within a
10 minimum three feet in front of an automated teller machine
11 located on an exterior wall of a building open to the outdoor air.
12 Such camera or cameras need not view and record banking trans-
13 actions made at the automated teller machine. The recordings
14 made by such cameras shall be preserved by the bank for at least
15 thirty days;

16 (b) Within six months after the submission of the report of the
17 temporary task force required by the subdivision of this section,
18 entry doors equipped with locking devices which permit entry to
19 such facility only to persons using an automated teller machine
20 card or access code issued by a bank for that purpose. Provided,
21 however, that any automated teller machine facility located within
22 the interior of a building that is not equipped with such entry
23 locking devices within six months after the submission of such
24 report shall thereafter have at least one security guard stationed
25 therein during the period of time after regular banking that such

26 automated teller machine facility is available to banking cus-
27 tomers;

28 (c) entry doors equipped with fire exit bolts;

29 (d) adequate lighting;

30 (e) at least one exterior wall made substantially of untinted
31 glass or other untinted transparent material which provides an
32 unobstructed view of the automated teller machine or machines
33 within the automated teller machine facility;

34 (f) reflective mirrors or surfaces at each automated teller
35 machine which provide the user a rear view;

36 (g) a reflective mirror or mirrors placed in a manner that per-
37 mits a person present in the automated teller machine facility to
38 view areas within such facility which are otherwise concealed
39 from plain view;

40 (h) a clearly visible sign which at minimum, states:

41 (1) the activity within the automated teller machine facility is
42 being recorded by surveillance camera;

43 (2) customers should close the entry door completely upon
44 entering if the automated teller machine facility is located within
45 the interior of a building;

46 (3) customers should not permit entrance to any unknown
47 person at any time after regular banking hours if an automated
48 teller machine facility located within the interior of a building is
49 available to banking customers;

50 (4) customers should place withdrawn cash securely upon their
51 person before exiting the automated teller machine facility;

52 (5) complaints regarding security in the automated teller
53 machine facility should be directed to the bank's security depart-
54 ment or to the director of the office of the commissioner of banks,
55 together with the contact address and telephone number for said
56 parties;

57 (6) Where the nearest emergency assistance agency is located
58 that is responsible for addressing criminal activity or medical
59 emergencies;

60 (i) the bank should create a twenty foot radius where no vehi-
61 cles are allowed to park or stand, enforced jointly by the bank and
62 the local police authority with jurisdiction;

63 (j) All banks operating in the Commonwealth which provide
64 outside and enclosed automated teller machines shall provide a

65 telephone which provides a direct, emergency 911 call to the
66 police department with jurisdiction at that location. The Commis-
67 sioner of Banks shall coordinate the installation of emergency
68 telephones with each bank in a timely basis not exceeding one
69 year from the effective date of this act, unless granted a waiver for
70 additional time to comply by said commissioner.

71 Paragraphs (b), (c), (e) and (g) of this subdivision shall not
72 apply to any automated teller machine facility located on an exte-
73 rior wall of a building open to the outdoor air.

74 (II) Special commission. There is hereby established a special
75 commission to study the technological feasibility of the limited
76 access entry door requirements of paragraph (b) of subdivision I
77 of this section. Such task force shall be comprised of fifteen mem-
78 bers, two of whom shall be representatives of federally-chartered
79 banks, two of whom shall be representatives of state-chartered
80 banks, two of whom shall be representatives of savings and loan
81 associations and two of whom shall be representatives of Massa-
82 chusetts-based credit union associations. The Governor shall
83 appoint seven members, one of whom shall be named the
84 chairman of the task force with the approval of the Senate Presi-
85 dent and House Speaker. Not later than twelve months after the
86 appointment of the last member of the special commission, the
87 task force shall submit a report containing its conclusions to the
88 Governor and the joint committee on banks and banking.

89 (III) Any bank which operates an automated teller machine
90 facility shall file a list of such facilities with the executive office
91 of public safety and the division of banks, including the street
92 addresses, intersecting streets, hours of operation, method of secu-
93 rity, method of surveillance at each facility and the telephone
94 number of the bank's security department. The executive office of
95 public safety shall distribute this list to each local police depart-
96 ment.

97 (IV) Violations and penalties.

98 (a) A bank found to be in violation of any provision of subdivi-
99 sion I of this section shall be subject to a civil penalty of not more
100 than two hundred fifty dollars. Each violation of any provision of
101 subdivision I of this section with respect to a particular automated
102 teller machine facility shall be considered a separate violation
103 thereof.

104 (b) Any bank found to be in violation of any provision of subdi-
105 vision I of this section shall correct the violation within three days
106 after such finding or shall thereafter be subject to a civil penalty
107 of not less than five hundred dollars or more than one thousand
108 dollars and an additional civil penalty of two hundred fifty dollars
109 per day for such period that said violation remains uncorrected.

110 (c) Any bank found to be in violation of subdivision (VI) of this
111 section shall be liable for a civil penalty of not more than one
112 thousand dollars for each automated teller machine facility for
113 which a report has not been filed. Any bank which makes a mate-
114 rial false statement or material omission in any report filed pur-
115 suant to subdivision III of this section shall be liable for a civil
116 penalty of not more than five thousand dollars for each report.

117 (d) A proceeding to recover any civil penalty authorized to be
118 imposed pursuant to this section shall be commenced by the
119 service of a notice of violation which shall be returnable to the
120 commissioner of banks. Such commissioner after due notice and
121 an opportunity for a hearing, shall be authorized to impose the
122 civil penalties prescribed by this section.

123 (V) Consumer safety information. Upon the original issuance or
124 reissuance of an automated teller machine facility access card or
125 code, or any other means or device permitting access to an auto-
126 mated teller facility, the issuing bank shall provide its customer
127 with written information concerning safety precautions to be
128 employed while using an automated teller machine facility. Such
129 written information shall include at a minimum the information
130 described in subparagraphs (i) through (v) of paragraph (h) of sub-
131 division I of this section. In addition, until such time as all facili-
132 ties are required to comply with security measures contained in
133 this section, and for one year thereafter, such written information
134 shall also include a statement indicating that entrance to an auto-
135 mated teller machine facility located within the interior of a
136 building may be obtained by persons who are not authorized to
137 use the automated teller machine facility.

138 (VI) Certification of compliance. Within thirty days after the
139 effective date of this section, and each year thereafter every bank
140 which has an automated teller machine facility which is in opera-
141 tion on such date shall submit a written report to the commis-
142 sioner of banks certifying that such automated teller machine

143 facility is in compliance with the provisions of this section, or if
144 such facility is not in compliance with the provisions of this
145 section, such report shall state the manner in which such facility
146 fails to meet the requirements of this section and the reasons for
147 such non-compliance.

148 (VII) Enforcement measures.

149 (a) The division of banks shall be authorized to enforce this
150 section.

151 (b) Statistics of crimes associated with the use of automated
152 teller machines compiled and maintained by the executive office
153 of public safety shall be made available to all banks and the
154 public.

155 (VIII) Exemptions. The provisions of this section shall not
156 apply to any unenclosed automated teller machine located in any
157 building, structure or space whose primary purpose or function is
158 unrelated to banking activities, including but not limited to super-
159 markets, office buildings, airports and school buildings, provided
160 that such automated teller machine shall be available for use only
161 during the regular hours of operation of the building, structure or
162 space in which such machine is located.